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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------------|------------------------|
| 10/528,400 | 03/17/2005 | Haral Sieke | AP051-05 | 5010 |
| 10037 | 7590 | 11/15/2007 | | |
| MILDE & HOFFBERG, LLP 10 BANK STREET SUITE 460 WHITE PLAINS, NY 10606 | | | EXAMINER LANDRUM, EDWARD F | |
| | | | ART UNIT 3724 | PAPER NUMBER |
| | | | MAIL DATE 11/15/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,400

Applicant(s)

SIEKE ET AL.

Examiner

Edward F. Landrum

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34,36-38,40,46-49 and 56-63 is/are pending in the application.
- 4a) Of the above claim(s) 58-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34,36-38,40,46-49,56 and 57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 34, 36-38, 40, 46-49, 56, and 57 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term surrounds means: to enclose on all sides; encompass¹. The specification never states that the fixed width channel of the second guide is capable of enclosing the wiper blade on all sides of the wiper blade. It appears that the front end and rear end of the lip of the wiper blade would never run into the fixed width channel and therefore the fixed with channel could never surround the lip of the wiper blade.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

¹ "surround." *Dictionary.com Unabridged (v 1.1)*. Random House, Inc. 08 Nov. 2007.
<Dictionary.com <http://dictionary.reference.com/browse/surround>>.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 34, 36-38, 46, 48, 49, and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Wessels (German Patent no 29806561.7).

Wessels teaches (see Figures 1-3) a device capable of trimming windshield wiper blades having a basic body with a longitudinal passage (See Figure 1). Two longitudinal webs formed in a facing relationship on opposite sides of the longitudinal passage form a first guide (generally 3). A cutting unit (1, 2, and 4) is adjustably mounted in the body and comprises a cutting blade (1) positioned normal to the direction of movement of a wiper blade and normal to a cutting direction. A second guide (4 and 2) is located in proximity to the cutting blade and is capable of guiding a wiper blade. The second guide tapers in a direction of movement of the material being cut (6) from a large width to a fixed width (depth of guide decreases as guide portion 2 tapers upwards to a fixed height towards the top of the second guide 4 in a direction of movement of the material being cut). Figures 2 and 3 show that the second guide has a depth (distance between 2 and top of 4) capable of covering a portion of a lip of a wiper blade to be cut. The second guide expands into a discharge passage after the blade. Means (the two posts and springs shown in Figures 2 and 3) are provided for adjusting the cutting unit with respect to the first guide. A locking means (5) is provided to lock the cutting unit into place.

Claim Rejections - 35 USC § 103

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 34, 36-38, 46, 48, 49, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Wessels in view of Freeland (U.S Patent No. 5,848,471).

Wessels teaches (see Figures 1-3) a device capable of trimming windshield wiper blades having a basic body with a longitudinal passage (See Figure 1). Two longitudinal webs formed in a facing relationship on opposite sides of the longitudinal passage form a first guide (generally 3). A cutting unit (1, 2, and 4) is adjustably mounted in the body and comprises a cutting blade (1) positioned normal to the direction of movement of a wiper blade and normal to a cutting direction. A second guide (4 and 2) is located in proximity to the cutting blade and is capable of guiding a wiper blade. The second guide tapers in a direction of movement of the material being cut (6) from a large width to a width that sufficiently supports and guides the lip of the wiper blade during cutting, although the width of this supportive portion of the second guide is not fixed. Figures 2 and 3 show that the second guide has a depth (distance between 2 and top of 4) capable of covering a portion of a lip of a wiper blade to be cut. The second guide expands into a discharge passage after the blade. Means (the two posts and springs shown in Figures 2 and 3) are provided for adjusting the cutting unit with respect to the first guide. A locking means (5) is provided to lock the cutting unit into place.

Wessels teaches all of the elements of the current invention as stated above except the second guide having a fixed width channel.

Freeland teaches (see Figures 1, 3, and 4) that it is old and well known to providing a fixed width guide channel (generally 54, or (60a and 60b) for the lip of a wiper blade for the purpose of straightening the lip of the wiper blade just before the lip engages the cutting edge of the wiper blade cutter.

It would have been obvious to have modified Wessels to incorporate the teachings of Freeland to make provide the second guide with a fixed width channel. Providing a fixed width channel would reduce bending and twisting in the lip of the wiper blade to insure that the lip was properly aligned with the cutting blade thereby allowing for a straighter and cleaner cut.

7. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wessels as stated in section 4, or the modified device of Wessels as stated in Section 6, in view of Diebold (German Patent No. 4110799) in further view of Tarpill et al (U.S Patent No. 6,581,291), hereinafter Tarpill

Wessels teaches all of the elements of the current invention as stated above except the adjusting means including a spindle that interacts in a play free manner with an adjusting wheel that is mounted in a recess of the body.

Diebold teaches (see Figure 1) providing an adjustment mechanism for a cutter (4) in a wiper blade cutter comprising a thumb wheel (6) and a spindle (generally 7) that interact play free with each other as they are threadingly attached to one another.

It would have been obvious to have modified Wessels to incorporate the teachings of Diebold to provide a play free adjustment mechanism for the cutting unit. Doing so would allow a user to easily and accurately make fine adjustments to the height of the cutting blade thereby allowing a user to save as much of the cutting blade as possible for later use.

Tarpill teaches (see Figure 5) it is old and well known to place a thumb wheel (52) in the recess of the housing.

It would have been obvious to have modified the modified device of Wessels to incorporate the teachings of Tarpill place the thumb wheel in a recess of the housing. Doing so would aid in preventing the thumb wheel from being moved accidentally during the cutting process thereby making it so a user would not as often have to re-cut a wiper blade due to changes in the cutting height of the cutting blade.

8. Claims 47 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wessels as stated in section 4, or the modified device of Wessels as stated in Section 6, in view of Diebold.

Wessels teaches all of the elements of the current invention as stated above except curving the first wiper blade guide and the entrance to the longitudinal passage.

Diebold teaches (see Figure 2) curving the entrance to the longitudinal passage as well as curving the first wiper blade guide in the longitudinal direction as the curves (19) are in the longitudinal direction of the cutting unit.

It would have been obvious to have modified Wessels to incorporate the teachings of Diebold to curve both the entrance to the passage as well as first guide as

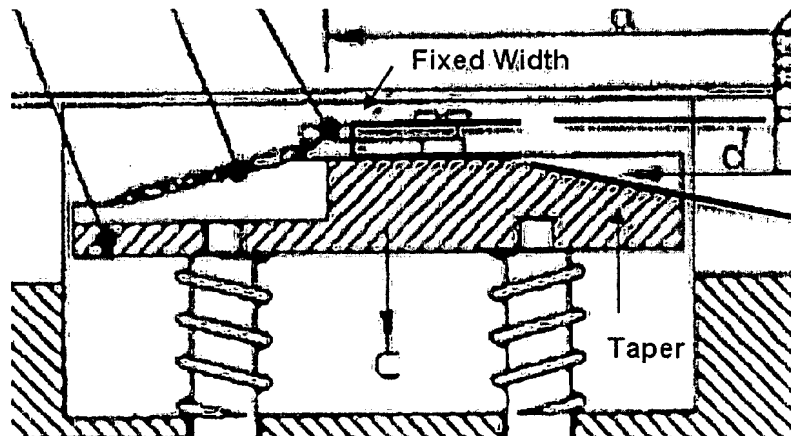
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doing so would allow a user to more easily place the wiper blade into the wiper blade guide thereby making the cutting process more efficient.

Response to Arguments

9. Applicant's arguments filed 10/24/2007 have been fully considered but they are not persuasive.

Wessels does teach a fixed with channel as explained in the 102(b) rejection above and shown with this drawing below.



Examiner never states that the springs maintain a fixed with between them but instead states "The second guide tapers in a direction of movement of the material being cut (6) from a large width to a fixed width (depth of guide decreases as guide portion 2 tapers upwards to a fixed height towards the top of the second guide 4 in a direction of movement of the material being cut). There is no reason why the depth and the width cannot be the same measurement. However, examiner has provided a second rejection involving a fixed distance between two side portions of a guide adjacent the lip if applicant argues the 102(b) rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Plana (U.S Patent No. 4,693,004), Nguyen (U.S Patent No. 5,044,081), Samuelsson (U.S Patent No. 4,604,802), Faggioto (U.S Publication No. 2001/0034919), Ducret (U.S Patent No. 5,809,652), Danter et al (U.S Patent No. 5,381,601), Matthews (U.S Patent No. 2,013,893), Belling (U.S Patent No. 6,611,571), Fabian (U.S Patent No. 3,886,657), and Carney et al (U.S Patent No. 5,285,577) teach elements of the current invention.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

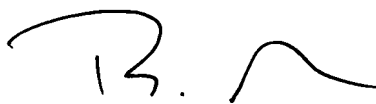
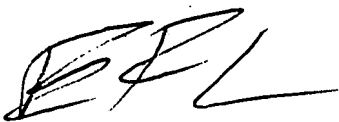
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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EFL
11/8/2007



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER